

BRACEWELL

December 2, 2022

VIA ELECTRONIC MAIL

Attention: Mr. Steven Blazek, Program and Management Analyst
Grid Deployment Office
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Re: Application of Shell Energy North America (US), L.P. for Renewal of Authorization to Transmit Electric Energy to Mexico, Docket No. EA-338-C

Dear Mr. Blazek:

Enclosed for filing on behalf of Shell Energy North America (US), L.P. ("Shell Energy") are an original and two (2) conformed copies of the Application of Shell Energy for Renewal of Authorization to Transmit Electric Energy to Mexico and related exhibits ("Renewal Application"). Shell Energy has authorized payment in the amount of \$500.00 made payable to the Treasurer of the United States, as required by 10 C.F.R. § 205.309. A copy of the Renewal Application is being served contemporaneously upon the Federal Energy Regulatory Commission as required of wholesale power marketers by 10 C.F.R. § 205.309.

If you have any questions regarding the Renewal Application, or if you require additional information, please contact the undersigned at 202-828-5839.

Respectfully submitted,



Catherine McCarthy
Counsel for Shell Energy North America (US), L.P.

Enclosures

cc: Federal Energy Regulatory Commission

Catherine P. McCarthy
Partner

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**UNITED STATES OF AMERICA
BEFORE THE DEPARTMENT OF ENERGY
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY**

Shell Energy North America (US), L.P.

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Docket No. EA-338-C

**APPLICATION OF
SHELL ENERGY NORTH AMERICA (US), L.P.
FOR RENEWAL OF AUTHORIZATION
TO TRANSMIT ELECTRIC ENERGY TO MEXICO**

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Dated: December 2, 2022

**UNITED STATES OF AMERICA
BEFORE THE DEPARTMENT OF ENERGY
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY**

Shell Energy North America (US), L.P.

Docket No. EA-338-C

**APPLICATION OF SHELL ENERGY NORTH AMERICA (US), L.P.
FOR RENEWAL OF AUTHORIZATION
TO TRANSMIT ELECTRIC ENERGY TO MEXICO**

Pursuant to Section 202(e) of the Federal Power Act (“FPA”), 16 U.S.C. § 824a(e) (2018), and Part 205, Subpart W of the U.S. Department of Energy’s (“DOE”) regulations, 10 C.F.R. § 205.300, *et seq.* (2018), Shell Energy North America (US), L.P. (“Shell Energy” or “Applicant”) hereby requests renewal of its authorization to transmit electric energy from the United States to Mexico for a period of five years (“Renewal Application”). Shell Energy respectfully requests that authorization be granted for an additional term of five years beginning on or before May 30, 2023 in order to avoid any lapse in authority to transmit electricity to Mexico.¹ In support of this Renewal Application, Shell Energy respectfully states as follows:

I. DESCRIPTION OF THE APPLICANT

The exact legal name of the Applicant is Shell Energy North America (US), L.P. (“Shell Energy”) is a limited partnership organized in the State of Delaware with its executive offices and principal place of business located in Houston, Texas. Shell Energy is a wholly-owned, indirect subsidiary of Shell USA (“Shell”). Shell is a wholly-owned, indirect subsidiary of Shell plc, which is a public limited company incorporated in England and Wales with its principal place of business in London, England. Shell Energy is a power marketer engaged in the business of marketing and trading electric energy and other energy related products in the United States. Shell Energy is authorized to sell wholesale electric energy, capacity and ancillary services outside of the Electric Reliability Council of Texas (“ERCOT”) at market-

¹ Shell Energy currently holds authorization to transmit electricity to Mexico (OE Docket No. EA-338-B), which expires on May 30, 2023.

based rates pursuant to authority granted by the Federal Energy Regulatory Commission (“FERC”) under a wholesale power sales tariff currently on file with FERC in Docket No. ER17-201-000. Shell Energy is certified as a Qualified Scheduling Entity with ERCOT and is registered with the Public Utilities Commission of Texas as a wholesale power marketer. Shell Energy does not own or control any transmission or distribution facilities. Shell Energy does not have a franchised service area.

On May 5, 2008, DOE issued Order No. EA-338 authorizing Shell Energy to transmit electric energy from the United States to Mexico as a power marketer.² DOE subsequently renewed Shell Energy’s authorization to export electric energy from the United States to Mexico as a power marketer in Order No. EA-338-A, and again in Order No. EA-338-B.³ In Order No. EA-338-B, DOE renewed Shell Energy’s export Authorization to Mexico, which became effective May 30, 2018, and remains in effect for a period of five (5) years from that date.

II. COMMUNICATIONS

Communications regarding this Renewal Application should be addressed to the following persons:

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Shell Energy North America (US), L.P.
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III. JURISDICTION

The authority requested of DOE by Shell Energy is a necessary condition for exporting under section 202(e) of the FPA which provides that the United States Department of Energy, Office of Electricity Delivery and Energy Reliability is the sole agency with jurisdiction over the proposed export of

² *Shell Energy North America (US), L.P.*, Order No. EA-338 (May 5, 2008) (Order Authorizing Electricity Exports to Mexico).

³ *Shell Energy North America (US), L.P.*, Order No. EA-338-A (May 9, 2013) (Order Authorizing Electricity Exports to Mexico); *Shell Energy North America (US), L.P.*, Order No. EA-338-B (May 30, 2013) (Order Authorizing Electricity Exports to Mexico).

electric energy to Mexico. No other known federal, state or local government has jurisdiction over the actions to be taken under the authority sought in this Renewal Application.

IV. RENEWAL AUTHORIZATION AND TECHNICAL DISCUSSION

By this Renewal Application, Shell Energy seeks continued authorization to transmit electric energy, on either a firm or interruptible basis, to Mexico. Shell Energy desires to renew its authority to export electric energy acquired from U.S. generating sources to Mexico over international electric transmission facilities. The Presidential Permits under which the relevant border facilities were constructed and maintained, and details related thereto, are set forth in Exhibit C. As explained below, Shell Energy owns no transmission facilities, and its affiliates' only transmission facilities are interconnection facilities necessary to interconnect individual generating facilities to the grid. Thus, the border facilities referenced in Exhibit C are not owned or controlled by Shell Energy or any of its affiliates.

Pursuant to Section 202(e) of the FPA, before DOE grants authorization to export electricity, it first evaluates the impact of the export on the reliability of the U.S. electric system. DOE approves an application to export electricity unless it finds that "the proposed transmission would impair the sufficiency of electric supply within the United States," or that "the proposed transmission . . . would impede or tend to impede coordination in the public interest of facilities subject to the jurisdiction of the Commission." 16 U.S.C. § 824a(e). In applying these two criteria to requests for export authorizations submitted by electric power marketers like Shell Energy, DOE has declined to follow a rigid application of the information filing requirements set forth in DOE's regulations; and, instead has used a flexible approach to account for the unique nature of power marketers.⁴

As a power marketer, Shell Energy does not own any electric generation or transmission facilities and does not hold a franchise or service territory or native load obligation. Moreover, none of

⁴ See, e.g., *Morgan Stanley Capital Group Inc.*, No. EA-185-A-CN (Aug. 14, 2000); *NorAm Energy Servs., Inc.*, No. EA-105-CN (Aug. 16, 1996); *MidCon Power Servs. Corp.*, No. EA-114 (July 15, 1996); *USGen Power Servs.*, No. EA-112 (June 27, 1996); *CNG Power Servs. Corp.*, No. EA-110 (June 20, 1996); *Destec Power Servs., Inc.*, No. EA-113 (May 31, 1996).

Shell Energy's affiliates own any electric transmission facilities other than generating facility interconnection facilities necessary to connect individual generating facilities to the grid and Shell Energy is not affiliated with an entity that holds a franchise or service territory. Thus, Shell Energy has no "transmission system" of its own on which power exports could have a reliability or stability impact. Shell Energy proposes to export electric energy to Mexico utilizing one or more of the existing transmission facilities at the U.S.-Mexico border which are authorized for third-party use, as identified in Exhibit C to this Renewal Application, which lists the owners, the locations, the voltage and the Presidential Permit numbers of those facilities.

Specifically, with respect to the first criterion used to analyze applications to export electricity, as a power marketer, Shell Energy will purchase the power to be exported from electric utilities, qualifying small power production facilities, cogeneration facilities and federal power marketing agencies, as those terms are defined in Sections 3(22), (17), (18) and (19) of the FPA. Shell Energy neither owns, operates nor controls an electric power supply transmission and/or distribution system. As a result, its exports cannot have any adverse impact on the reliability, stability, or sufficiency of supply on a franchised electric supply system. As a power marketer, Shell Energy's supply obligations are those for which it has contracted. The electric energy exported pursuant to the authorization requested in this Renewal Application, whether on a firm or interruptible basis, will be purchased in bilateral, voluntary transactions from the surplus and available electric energy of the generator/seller. As a result, Shell Energy's exports to Mexico will not impair the sufficiency of the electric power supply within the U.S. As DOE has recognized, the "power purchased by a power marketer is, by definition, surplus to the needs of the selling entities" and "[w]ith no native load obligations, the power marketer is free to sell its power portfolio on the open market domestically or as an export."⁵ Thus, an export of

⁵ See e.g., *TransAlta Energy Marketing (U.S.) Inc.*, Order No. EA-216-C at 2 (May 17, 2011) (Order Authorizing Electricity Exports to Canada).

electricity “occurring under such circumstances” would not impair the sufficiency of electric supply within the U.S.⁶

DOE has interpreted the second criterion used to analyze applications to export electricity “primarily as an issue of the operational reliability of the domestic electric transmission system.”⁷ As noted above, Shell Energy does not own, operate or control any electric power supply system in the United States. Additionally, in making the necessary commercial arrangements and obtaining transmission capacity from unaffiliated third parties necessary to export electricity under the authorization requested herein, Shell Energy will comply with existing industry procedures for obtaining transmission capacity, including reserving transmission service in accordance with FERC’s Open Access Same-Time Information System (“OASIS”) and scheduling delivery of the export with the appropriate Regional Transmission Organization(s) (“RTOs”) or Independent System Operator(s) (“ISOs”) and/or Balancing Authority areas.

Shell Energy will schedule its exports from the U.S. in compliance with all applicable reliability criteria, standards and guidelines as are set out by the North American Electric Reliability Corporation (“NERC”) (or any successor organization), the North American Energy Standards Board (or any successor organization) and regional reliability councils and as applied by U.S. transmission providers. Shell Energy will also make all necessary commercial arrangements and will obtain any and all other regulatory approvals required to effectuate any power exports. Shell Energy will comply with all the terms and conditions contained in the authorizations issued for the cross-border facilities identified in Exhibit C as well as any other export limitations that DOE may deem appropriate, consistent with DOE’s orders authorizing exports of electric energy by power marketers.

⁶ *Id.*

⁷ See e.g., *Shell Energy North America (US), L.P.*, Order No. EA-338-A at 2 (May 9, 2013) (Order Authorizing Electricity Exports to Mexico); see also *Shell Energy North America (US), L.P.*, Order No. EA-338-B at 2-3 (May 30, 2018) (Order Authorizing Electricity Exports to Mexico).

V. CONSISTENCY WITH LAWS

Authorization of the exports proposed by Shell Energy is consistent with the United States-Mexico-Canada Agreement (“USMCA”) and U.S. energy policy and will foster development of a more efficient and competitive North American energy market. Shell Energy will conduct all operations pursuant to this authorization in accordance with the provisions of the FPA and pertinent rules, regulations and orders adopted or issued thereunder, and in conformity with the reliability criteria, standards and guidelines of NERC, regional reliability councils, and Balancing Authorities, including any applicable RTOs or ISOs. Compliance with these statutes, rules, regulations and orders will ensure that the proposed transmission will not impede or tend to impede the regional coordination of electric utility planning or operations.

Shell Energy believes that DOE is not required to conduct an environmental assessment or an environmental impact statement in connection with this Renewal Application. DOE’s approval of this Renewal Application is eligible for categorical exclusion under Appendix B to Subpart D, paragraph B4.2 of the revised DOE regulations implementing the National Environmental Policy Act of 1969.⁸

VI. PROCEDURAL ISSUES

If required by DOE, Shell Energy agrees to abide by general conditions consistent with those set forth in Shell Energy’s existing DOE electricity export authorization, as applicable.⁹ Shell Energy respectfully submits that it satisfies the requirements of Section 202(e) of the FPA and Part 205, Subpart W of DOE’s regulations applicable to applications for authorization to transmit electric energy from the United States to Mexico. In addition, Shell Energy requests any additional waivers deemed necessary for DOE to issue the order requested herein.

VII. EXHIBITS

The following exhibits identified in the DOE’s regulations are attached hereto as follows:

⁸ See e.g., *Shell Energy North America (US), L.P.*, Order No. EA-338-A at 8 (May 9, 2013) (Order Authorizing Electricity Exports to Mexico); See also *Shell Energy North America (US), L.P.*, Order No. EA-338-B at 8 (May 30, 2018) (Order Authorizing Electricity Exports to Mexico).

⁹ *Id.* at 9-14.

Exhibit A: Agreements (Not Applicable)
Exhibit B: Legal Opinion of Shell Energy's Counsel
Exhibit C: Transmission System Information (submitted in lieu of maps)
Exhibit D: Irrevocable Limited Power of Attorney (Not Applicable)
Exhibit E: Statement of any Corporate Relationship or Existing Contract which in any way Relates to Control or Fixing of Rates for Purchase, Sale or Transmission of Electric Energy (Not Applicable)
Exhibit F: Operating Procedures Regarding Available Capacity and Energy (Not Applicable)
Exhibit G: Verification

To the extent necessary, Shell Energy requests a waiver of the requirement to provide the exhibits that are not applicable to this Renewal Application, as noted above.

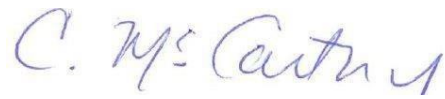
Pursuant to 10 C.F.R. § 205.309, a copy of this Renewal Application is being provided to:

Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

VIII. CONCLUSION

For the forgoing reasons, Shell Energy respectfully requests that the DOE expeditiously consider this Renewal Application for renewal of its blanket authorization to export electric energy from the United States to Mexico and expeditiously issue an order renewing Shell Energy's authorization to transmit electric energy to Mexico for a period of five years, effective upon issuance of the order but no later than May 30, 2023.

Respectfully submitted,



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Dated: December 2, 2022

EXHIBIT A

(NOT APPLICABLE)

EXHIBIT B

Opinion of Legal Counsel

BRACEWELL

December 2, 2022

Attention: Steven Blazek
Program and Management Analyst
Grid Development Office
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Re: Application of Shell Energy North America (US), L.P. for Renewal of Authorization to Transmit Electric Energy to Mexico, Docket No. EA-338-C

Dear Mr. Blazek:

Shell Energy North America (US), L.P. (the "Company") is the Applicant in the above-referenced proceeding. As special counsel to the Company for the purpose of providing this letter, we have reviewed the Certificate of Limited Partnership of the Company dated as of September 18, 1995 (as amended on June 3, 1996; June 26, 1997; October 5, 1999; November 24, 1999; December 14, 2000; and October 1, 2007), the Fourth Amended and Restated Limited Partnership Agreement of the Company dated as of April 1, 2005 (as amended on September 17, 2007; October 1, 2007; January 19, 2012; and December 13, 2016), the Certificate of Officer attached hereto as Annex I, other certificates of certain officers of the Company, and such other documents as we have deemed necessary in order to advise you that, as of the date hereof:

- (1) The proposed export of electric energy by the Company to Mexico is within the limited partnership powers of the Company; and
- (2) The Company has complied with or will comply with, in each case to the best of our knowledge based solely on the Certificate of Officer attached hereto as Annex I, all pertinent Federal and State laws regarding the matters contemplated in the referenced application.

Very truly yours,



Bracewell LLP

Enclosure

Bracewell LLP

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AUSTIN CONNECTICUT DALLAS DUBAI HOUSTON LONDON NEW YORK SAN ANTONIO SEATTLE WASHINGTON, DC

CERTIFICATE OF OFFICER

This Certificate of Officer dated as of December 1, 2022 (this "Certificate"), is made by the undersigned officer of Shell Energy North America (US), L.P., a Delaware limited partnership (the "Company"), to Bracewell LLP, who are relying on the truth and accuracy of the statements contained herein for the purposes of the opinion to be provided by Bracewell LLP (the "Opinion") in connection with the Application of the Company for Renewal of Authorization to Transmit Electric Energy to Mexico (Docket No. EA-338-C) dated as of December 1, 2022 (the "Renewal Application").

The undersigned hereby certifies that she is familiar with the facts herein certified and is duly authorized to certify the same. The undersigned hereby certifies to Bracewell LLP the following:

- (1) I am the Vice President, Regulatory Affairs of the Company, and I have reviewed the Renewal Application of the Company, including the Opinion of Bracewell LLP.
- (2) I have knowledge of the matters set forth in the Renewal Application.
- (3) The Company has complied with or will comply with all pertinent Federal and State laws regarding the matters contemplated in the referenced Renewal Application.
- (4) The Company has furnished a true and correct copy of the Fourth Amended and Restated Limited Partnership Agreement of the Company and each amendment thereto to Bracewell LLP, and such Fourth Amended and Restated Limited Partnership Agreement, as so amended, is in full force and effect.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of the date first above written.

SHELL ENERGY NORTH AMERICA (US), L.P.

By: 

Marcie Milner

Vice President, Regulatory Affairs

EXHIBIT C

Transmission System Information

Exhibit C – Transmission Lines at the U.S.-Mexico Border Authorized for Third-Party Use

Present Owner	Location	Voltage	Presidential Permit No.
AEP Texas Central Company	Laredo, TX	138 kV	PP-423
	Brownsville, TX	230 kV	PP-423
	Eagle Pass, TX	69 kV	PP-425
		138 kV	PP-425
		138 kV	PP-219
Baja California Power, Inc.	Imperial Valley, CA	230 kV	PP-234
Commission Federal de Electricidad	Falcon Dam, TX	138 kV	U.S.-Mex. Treaty
	Redford, TX	7.2 kV	PP-51
	Presidio, TX	12.5 kV	PP-03
	Del Rio, TX	12.0 kV	PP-59
El Paso Electric Company	Diablo, NM	115 kV	PP-92
	Ascarate, TX	115 kV	PP-48
Generadora del Desierto – WAPA	San Luis, AZ	2-230 kV	PP-304
San Diego Gas & Electric	Miguel, CA	2-230 kV	PP-68
	Imperial Valley, CA	2-230 kV	PP-79
Sharyland Utilities, Inc.	McAllen, TX	138 kV	PP-285
Energia Sierra Juarez U.S. Transmission, LLC	Jacumba, CA	2-230 kV	PP-334
Arizona Public Service Company	San Luis, AZ	34 kV	PP-106
UNS	Lochiel, AZ	13.8 kV	PP-40
Nogales Transmission L.L.C.	Nogales, AZ	230 kV	PP-420

EXHIBIT D

(NOT APPLICABLE)

EXHIBIT E

(NOT APPLICABLE)

EXHIBIT F

(NOT APPLICABLE)

EXHIBIT G

Verification

UNITED STATES OF AMERICA
BEFORE THE DEPARTMENT OF ENERGY
OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY

In the Matter of:

Shell Energy North America (US), L.P.

)

Docket No. EA-338-C

VERIFICATION

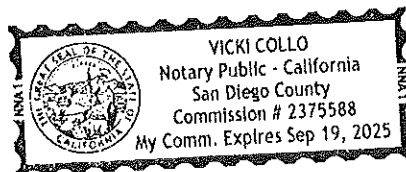
I, Marcie Milner, being first duly sworn, state that I am Vice President – Regulatory Affairs of Shell Energy North America (US), L.P.; that I am authorized to execute this verification; that I have read the foregoing Renewal Application of Shell Energy North America (US), L.P. for Authorization to Transmit Electric Energy to Mexico and its exhibits and am familiar with the contents thereof and have knowledge of the matters set forth therein, and hereby verify that the contents thereof and that all of the statements contained therein are true and correct to the best of my knowledge, information and belief.



Marcie Milner

NOTARIZATION:

Signed and sworn to before me this 1st day of December 2022.





Notary Public

My Commission Expires: 9-19-25